

PEPSICO GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS

1. DEFINITIONS

In these Terms and Conditions the following definitions apply:

“Buyer” means the company placing an Order.

“Goods” means the materials, articles or services (or any of them) which are the subject of an Order.

“Order” means an order for Goods placed by the Buyer.

“Seller” means the person, firm or company to whom an Order is addressed.

2. ACCEPTANCE OF TERMS

These General Terms and Conditions of Purchase shall be incorporated into an Order. The Seller’s commencement of work on the Goods under the terms of an Order, or shipment of the Goods, whichever occurs first, shall be deemed to be the Seller’s acceptance of the Order. THE SELLER’S ACCEPTANCE IS LIMITED TO ACCEPTANCE OF THESE GENERAL TERMS AND CONDITIONS OF PURCHASE AND DOES NOT INCLUDE ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY THE SELLER TO VARY THESE GENERAL TERMS AND CONDITIONS OF PURCHASE.

3. COMPLETION

Time is of the essence for an Order. If the Goods are not delivered on the date(s) specified in the Order, the Buyer may, without liability and without prejudice to any other rights or remedies it may have:

- (a) terminate the Order by notice to the Seller effective upon receipt in respect of Goods not yet shipped or services not yet rendered;
- (b) buy substitute Goods elsewhere and recover from the Seller any additional expenditure reasonably incurred.

4. QUALITY/PERFORMANCE

The Seller warrants that the Goods shall:

- (a) be of the best quality, material and workmanship;
- (b) conform in all respects to the terms of the Order and any performance criteria, specifications, samples, patterns or artwork requested by the Buyer;
- (c) be merchantable and safe and appropriate for the purpose for which Goods of this kind are normally used;
- (d) be properly contained, packaged, marked and labelled;
- (e) be fit for the particular purpose for which the Buyer intends to use the Goods if the Seller has reason to know such particular purpose;
- (f) be free from any third party lien, claim, title or interest; and
- (g) comply with all relevant requirements of European Community legislation and legislation of any country which is connected with the Order.

5. VENDOR ASSURANCE, FOOD SAFETY, ENVIRONMENTAL AND OTHER POLICIES

The Seller will (where deemed appropriate by the Buyer):

- (a) maintain a commitment to best practise food safety and PepsiCo Vendor Assurance procedures at Suppliers cost
- (b) comply with the requirements of the PepsiCo Supplier Approval and Compliance Programmes;
- (c) ensure all materials comply with all EU and National legal requirements including, without limitation, requirements relating to traceability

- (d) ensure compliance with any agreed, signed specifications;
- (e) ensure that all Goods will comply with the PepsiCo Raw Materials Food Safety Policy (available on request) including, without limitation PepsiCo requirements relating to traceability
- (f) commit to engage with Buyer to develop sustainability programmes and participate with such sustainability initiatives as may be communicated to it from time to time by the Buyer.

6. SUPPLIER CODE OF CONDUCT

This Agreement shall be subject to and the Seller shall adhere to the PepsiCo Worldwide Supplier Code of Conduct, as amended from time to time and available at:
www.pepsico.com/SupplierCodeofConduct

7. BUYER'S RIGHTS

The Buyer's signature of receipt, inspection, testing, payment for or use of the Goods furnished under an Order shall not affect the Seller's obligations under the warranties contained in these terms and conditions which shall survive the Buyer's inspection, testing, acceptance and/or use.

The Buyer may inspect the Goods and may accept or reject at any time any and all of the Goods which are, in the Buyer's judgement, defective or which do not conform to any warranty. The Buyer may, at the Seller's expense, return to the Seller rejected Goods and Goods supplied in excess of quantities ordered.

Without prejudice to any of its other rights or remedies, the Buyer may require the Seller to promptly replace or correct any Goods which are defective or non-conforming, at its sole cost and expense, provided the Buyer notifies the Seller within a reasonable time of its knowledge of the defect or non-conformity.

The Seller will reimburse the Buyer for any costs resulting from any non-conformity or defect as further set forth in paragraph 9, including without limitation any additional cost of sourcing the Goods from another supplier.

8. PRICE WARRANTY/FREIGHT CHARGES/ SET OFF

The Seller warrants that the prices for the Goods are complete and no less favourable than those currently extended to the Seller's other customers of similar account size for similar quantities of the same or similar Goods. Without the Buyer's prior written consent the Seller shall not add any charges, including without limitation, charges for shipping, packaging, labelling, storage, insurance, boxing or crating, customs duties or taxes. If the Seller offers better prices for the Goods to other customers of similar account size during the term of this Order the Seller will reduce the Buyer's prices correspondingly. If the Seller uses published freight charges, the Seller shall credit to the Buyer any decrease in the charges. If the Buyer has a claim against the Seller resulting from the Order or any transaction the Buyer may deduct or set off disputed amounts from the Seller's claims for amounts due under this Order.

9. CHANGES

The Buyer may, at any time, change the drawings, designs, specifications, materials, packaging, time and place of delivery, and method of transportation under an Order. The Seller agrees to accept any changes and if necessary the parties agree to modify any terms of the Order in writing accordingly.

10. INDEPENDENT CONTRACTOR

The parties agree that the Seller, its employees, agents and sub-contractors are performing services as independent contractors and not as the Buyer's employees, regardless of where they perform services.

11. INDEMNIFICATION

In addition to the Seller's other obligations hereunder, the Seller shall defend, indemnify and hold the Buyer harmless against any and all demands, damages, claims, liabilities, losses, costs and expenses (including legal expenses) arising out of or resulting from any known or unknown defect in the Goods or the negligence of, default of or breach of these terms and conditions (including breach of any warranty) by the Seller, its agents, employees or sub-contractors. The Seller shall maintain insurance coverage sufficient to satisfy its indemnification obligations hereunder.

12. CONFIDENTIALITY

The Seller shall consider as "Confidential Information" all non-public information provided by the Buyer; all specifications or other documents prepared by either party in connection with an Order; the fact that the Buyer has contracted to purchase Goods from the Seller, and all other non-public information relating to an Order. Without the Buyer's prior written consent, the Seller shall not disclose or use any Confidential Information for any purpose other than performing an Order.

13. ASSIGNMENT/ SUBCONTRACTING

The Seller may not assign nor subcontract any part of an Order without the Buyer's prior written consent. If the Seller subcontracts any part of an Order, the Seller shall bind each of its sub-contractors by the Order's terms; provided however that nothing contained in any sub-contract shall create, nor be represented to create, a contractual relationship between any sub-contractor and the Buyer.

14. TERMINATION FOR CONVENIENCE

Upon notice to the Seller, the Buyer may terminate an Order or any part thereof solely for its convenience. Upon its receipt of the Buyer's notice of termination, the Seller will immediately stop and cause all of its suppliers and sub-contractors to stop all work under the Order or the part which has been terminated. The Buyer will pay the Seller's actual direct costs resulting from the termination but the Buyer will not pay the Seller for any work performed after receipt by the Seller of the notice of termination, nor for any costs that the Seller could reasonably have avoided.

15. TERMINATION FOR CAUSE

Without prejudice to any of its other rights or remedies and without incurring any liability, the Buyer may terminate an Order or any part thereof in the event that the Seller commits a material breach of its obligations contained in the Order. Upon receipt of a notice of termination from the Buyer, the Seller shall immediately stop and cause all of its suppliers and sub-contractors to stop all work under the Order or the part, which has been terminated.

16. INTELLECTUAL PROPERTY

The Seller agrees, upon receipt of notification, to promptly assume the defence of, indemnify and hold harmless the Buyer, its agents, customers and other vendors from any suits, proceedings, claims, liabilities, expenses (including legal expenses), losses, royalties, profits, damages and settlement amounts, arising out of or resulting from any actual or alleged infringement of a third party's intellectual property rights by reason of similarity in design, trademark or appearance of the Goods supplied under an Order.

17. LIMITATION OF BUYER'S LIABILITY

THE BUYER SHALL NOT BE LIABLE TO THE SELLER FOR ANY INDIRECT OR CONSEQUENTIAL LOSSES, INCLUDING LOSS OF PROFITS, OF ANY KIND. THE BUYER'S LIABILITY IN RELATION TO ANY CLAIM FOR LOSS OR DAMAGE ARISING OUT OF, IN

CONNECTION WITH, OR RESULTING FROM AN ORDER SHALL IN NO CASE EXCEED THE PRICE ALLOCABLE TO THE GOODS OR UNIT THEREOF GIVING RISE TO THE CLAIM.

18. TITLE AND RISK

Title to the Goods shall pass to the Buyer upon delivery to the designated delivery point without prejudice to any right of rejection, which may accrue to the Buyer under these terms and conditions. Delivery of the Goods to the designated delivery point extinguishes the Seller's proprietary rights in them and the Seller retains no title. The Seller shall: (a) be responsible for and bear the risk of loss of or damage to the Goods until they are delivered to the designated delivery point and accepted by the Buyer, and (b) bear all risks and expenses related to the return of rejected Goods requiring correction, including without limitation, freight, duties, insurance, packaging, materials and labour costs.

19. WAIVER AND REMEDIES

Neither the Buyer's failure to insist on the performance of any of these terms and conditions, nor its failure to exercise any right or privilege, nor its waiver of any breach hereunder, shall be deemed to be a waiver of any of these terms or conditions or breaches by the Seller of an Order whether of the same or a similar type. The rights and remedies provided by these terms and conditions are cumulative and are not exclusive of any rights or remedies provided by law.

20. TAX

In the event any Tax becomes due by reason of this Agreement such Tax shall be borne by the party upon whom such Tax is imposed by applicable law.

Tax means: all foreign, federal, state, provincial, national, local and other taxes, fees, levies, duties and other assessments or charges whatever kind (including without limitations, income, excise, customs duties, tariffs, stamp, transfer, property, occupancy, value added, use, real estate, sales, payroll, gains, gross receipts, withholding and franchise taxes) together with any interest, penalties or additions payable in connection with such taxes, fees, levies, duties or other assessments or charges.

21. ENTIRE AGREEMENT

An Order shall incorporate these terms and conditions and shall constitute the entire agreement of the Seller and the Buyer regarding the supply of Goods and shall override and supersede any previous agreement or arrangement whether oral or in writing between the Seller and the Buyer unless expressly accepted in writing and signed by an authorised representative of the Seller and the Buyer. An Order may not be modified except in writing signed by an authorised representative of the Seller and the Buyer.

22. GOVERNING LAW AND JURISDICTION

An Order shall be governed by and construed in accordance with English law and the parties submit to the non-exclusive jurisdiction of the English courts over any claim or matter arising under or in connection with an Order and the legal relationships established by the Order.